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2
3 Hon. Tana Lin
4 United States District Judge
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 KURT BENSHOOF, Defendants.
11 Plaintiff,
12 v.
13 CITY OF SHORELINE, KING
14 COUNTY, TOWN & COUNTRY
15 MARKETS, EVAN B. FAGAN,
16 WILLIAM C AKERS, and MR.
17 THOMPSON,

No.: 2:24-cv-00343-TL

**PLAINTIFF'S MOTION TO
STRIKE DECL. SUMMERS (Dkt 77)**

18 Plaintiff moves to strike Decl. Ann Summers (Dkt 77).
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I. BACKGROUND

21 In Dkt 76, King County Defendants filed a response to Plaintiff's motion to strike
22 Counsel Summers' responses on behalf of Mr. Akers and Mr. Thompson in their
23 individual capacity on the grounds that Counsel Summers, a county prosecuting attorney,
24 has no authority to provide defense services to local governmental employees who have
25 been sued in their individual capacities.

26 In Dkt 77, Counsel Summers filed "DECLARATION OF ANN SUMMERS IN
27 SUPPORT OF SHORELINE AND KING COUNTY DEFENDANTS' OPPOSITION TO
28 MOTION FOR "JURISDICTIONAL DISCOVERY"". In this Declaration, Counsel
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1 Summers declared that she represents “Defendants Shoreline, King County, Deputy Akers
 2
 3 and Detective Thompson in this case.”

4 Counsel Summers attached Exhibit 1, verdicts in Seattle Municipal Court Case
 5 Nos. 671384, 676175, 676207, 676216, 676463 and 67492; for such none of the parties in
 6
 7 this case are parties to; nor which Counsel Summers has any personal knowledge of.
 8

9 In Decl. Summers (Dkt 77), Counsel Summers also attached Exhibit 2, a criminal
 10 complaint filed against Plaintiff by the State of Washington, and Exhibit 3, an order for
 11 continuance in the same 24-1-02680-7 SEA criminal case. Here again, none of the parties
 12
 13 in this case are party to 24-1-02680-7 SEA, nor does Counsel Summers have any personal
 14 knowledge of 24-1-02680-7 SEA.
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18 II. ARGUMENT AND AUTHORITY

19 “Under Federal Rule of Civil Procedure 12(f), a party may ask the court to strike
 20
 21 “any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.”
 22

23 Fed. R. Civ. Proc. 12(f). “ ‘Immaterial’ matter is that which has no essential or important
 24 relationship to the claim for relief or the defenses being pleaded.... ‘Impertinent’ matter
 25 consists of statements that do not pertain, and are not necessary, to the issues in question.”
 26

27 *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1527 (9th Cir.1993), rev'd on other grounds by
 28

29 *Fogerty v. Fantasy, Inc.*, 510 U.S. 517, 114 S.Ct. 1023, 127 L.Ed.2d 455 (1994).”
 30

31 *Greenwich Ins. Co. v. Rodgers*, 729 F. Supp. 2d 1158, 1162 (C.D. Cal. 2010)
 32

33 A matter is immaterial if it “has no essential or important relationship to the claim
 34 for relief or the defenses being pleaded.” *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1527
 35

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1 (9th Cir.1993), rev'd on other grounds by 510 U.S. 517, 114 S.Ct. 1023, 127 L.Ed.2d 455
 2
 3 (1994).

4 Since the proceedings of 24-1-02680-7 SEA and Seattle Municipal Court Case
 5 Nos. 671384, 676175, 676207, 676216, 676463 and 67492 have no essential or important
 6 relationship to the claim for relief or the defenses being pleaded; nor do they pertain to
 7 the issues in question; the matters in the criminal cases cited in Decl. Summers are
 8 “immaterial” and “impertinent” *Fantasy, Inc. v. Fogerty* (9th Cir.1993).
 9

10 As the criminal matters are immaterial and impertinent to this civil proceeding,
 11 Plaintiff and this Court should construe Decl. Summers (Dkt 77) as being presented for
 12 an improper purpose, such as to prejudice this Court, and to harass or needlessly increase
 13 the cost of litigation. FRCP 11(b)(1)

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CONCLUSION
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16 For the reasons stated, Plaintiff respectfully moves the Court to grant Plaintiff's
 17 Motion to Strike Decl. Ann Summers (Dkt 77).
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RESPECTFULLY SUBMITTED,
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Kurt Benshoof, Plaintiff *pro se*
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2 The foregoing statements of fact were typed up by the undersigned, upon Mr. Kurt
3 Benshoof's request and to the best of the undersigned's understanding.²

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Signature:

URVE MAGGITT / urve.maggitti@gmail.com

Date:

November 9, 2024

² See *Fareta v. California* and Section 35 of the **Judiciary Act of 1789**, 1 Stat. 73, 92

AFFIDAVIT

The foregoing were typed up by the undersigned, upon Mr. Benshoof's request and to the best of the undersigned's understanding.³

Federal and State Constitutions require that criminal prosecutions conform to prevailing notions of fundamental fairness and that criminal defendants be given a meaningful opportunity to present a complete defense. *State v. Wittenbarger*, 124 Wn.2d 467, 474-75, 880 P.2d 517 (1994).

Mr. Benshoof is being held incommunicado without access to pen, paper and envelopes. Appellant's legal mail is deliberately obstructed and unreasonably delayed. Mr. Benshoof has the first amendment right to access all court and to litigate/prosecute his case(s) without any obstruction by the state, the justice system nor the court's.

In 1975 in *Faretta v. California*, United States Supreme Court acknowledges an established historical fact: "Section 35 of the Judiciary Act of 1789, 1 Stat. 73, 92, enacted by the First Congress and signed by President Washington one day before the Sixth Amendment *813 was proposed, provided that 'in all the courts of the United States, the parties may plead and manage their own causes personally or by the assistance of such counsel . . .' The right is currently codified in 28 U.S.C. s 1654."⁴

The Court quoted from Section 35 of the Judiciary Act of 1789, 1 Stat. 73, 92 which states as follows:

"SEC. 35. And be it further enacted, That in all courts of the United States, the parties may plead and manage their own causes personally or by assistance of such counsel or attorneys at law"⁵

Judiciary Act of 1789 was passed before ratification of the Sixth Amendment in the Bill of Rights in 1791. The drafters of the Sixth Amendment had deliberately removed the word *attorneys at law* from the Sixth Amendment, and substantially amended the language to read: “*right to have the Assistance of Counsel.*”

Signature: *Urve Maggitti* Date: _____
/URVE MAGGITTI Urve.maggitti@gmail.com

ACKNOWLEDGMENT

³ See *Farella v. California* and Section 35 of the Judiciary Act of 1789, 1 Stat. 73, 92

⁴ Faretta v. California, 422 U.S. 806, 812–13, 95 S.Ct. 2525, 2530, 45 L.Ed.2d 562 (1975).

⁵ "The Judiciary Act; September 24, 1789, 1 Stat. 73. An Act to Establish the Judicial Courts of the United States." "APPROVED . September 24, 1789."

[https://avalon.law.yale.edu/18th century/judiciary_act.asp](https://avalon.law.yale.edu/18th%20century/judiciary_act.asp)

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**ACKNOWLEDGMENT
AFFIDAVIT
(Verification)**

STATE OF PENNSYLVANIA)

COUNTY OF CHESTER)

I, Urve Maggitti, the undersigned Affiant hereto, do hereby declare under penalties of perjury under the laws of the Commonwealth of Pennsylvania and the United States of America, that the foregoing accounting of facts are true and correct to the best of my current knowledge and belief.

I am over the age of 18 years of age, am a resident of the Commonwealth of Pennsylvania, have personal knowledge of the matters of this affidavit, and am capable of making such affidavit.

Pursuant to 28 U.S. Code § 1746 (1) I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 4, 2024.

Signed: _____

Urve Maggitti

Notary as JURAT CERTIFICATE

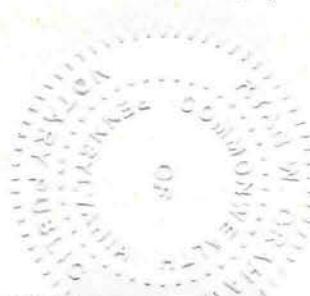
State of Pennsylvania _____

BEFORE ME personally appeared Urve Maggitti who, being by me first duly sworn, executed the foregoing in my presence and stated to me that the facts alleged therein are true and correct according to her own personal knowledge.

Notary Public,

My commission expires: 07/20/27

Commonwealth of Pennsylvania - Notary Seal
Ryan W. Graham, Notary Public
Montgomery County
My commission expires July 20, 2027
Commission number 1433473
Member, Pennsylvania Association of Notaries



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